

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CR.A No. 19-CR-103-LPS
)	
KIMBERLY SPONAUGLE,)	
)	
Defendant.)	

**STIPULATION AND ORDER
CONCERNING RULE 17(c) SUBPOENA DUCES TECUM**

WHEREAS, on August 15, 2019, the United States of America (the “Government”) initiated this matter (the “Litigation”) by filing a one-count indictment against Kimberly Sponaugle (“Defendant”) concerning certain actions Defendant allegedly took while employed by All About Women, P.A. (the “Former Employer”) [D.I. 1];

WHEREAS, on February 18, 2020, Defendant filed Motion to Serve Rule 17(c) Subpoena on the Former Employer (the “Former Employer Subpoena”) [D.I. 17];

WHEREAS, on February 21, 2020, the Court entered an Order granting Defendant leave to issue and serve the Former Employer Subpoena [D.I. 19];

WHEREAS, on April 8, 2020, the Former Employer timely served responses and objections to the Former Employer Subpoena;

WHEREAS, on June 18, 2020, the Court entered a Protective Order governing the exchange of confidential materials between the Government and Defendant (the “June 2020 Protective Order”) [D.I. 24];

WHEREAS, on December 12, 2020, the Former Employer produced certain communications in response to the Former Employer Subpoena that consisted of internal messaging (the “Arete Communications”);

WHEREAS, on August 6, 2021, Defendant filed a Consent Motion for Leave of Court to File Rule 17(c) Subpoena on Intuit, Inc. (the “Intuit Subpoena”) [D.I.55];

WHEREAS, the Court granted Defendant leave to serve the Intuit Subpoena on August 17, 2021 [D.I. 62];

WHEREAS, on September 9, 2021, Defendant filed a Consent Motion for Leave of Court to File Rule 17(c) Subpoena on Stefano Slack, LLC and Ralph J. Cetrulo, III (the “Stefano Slack Subpoena”) [D.I. 68];

WHEREAS, the Court granted Defendant leave to serve the Stefano Slack Subpoena on September 10, 2021 [D.I. 70];

WHEREAS, the Defendant and Former Employer dispute the enforceability of Request No. 5 in the Former Employer Subpoena requesting “All QuickBooks accounting/bookkeeping records of All About Women, LLC from January 23, 2012 to March 12, 2018 reflecting alleged unauthorized expenditures made by Kimberly Sponaugle listed under the category lines of other All About Women, LLC partners, principals, or employees”;

WHEREAS, the Defendant has requested that the Former Employer supplement the Arete Documents with additional internal messages (the “Supplemental Arete Communications”);

AND NOW, THEREFORE, the Government, Defendant, and Former Employer, for good cause in order to resolve the dispute concerning Request No. 5 in the Former Employer Subpoena and the Supplemental Arete Communications, hereby stipulate and agree, subject to the approval of the Court, as follows:

1. Within five (5) days of receiving notice of the entry of this Order, Former Employer shall provide Defendant's undersigned Delaware counsel and the Government's undersigned counsel a username and password granting "read only" live access (the "Username and Password") to the Former Employer's QuickBooks account for the period covering no less than January 23, 2012 to March 12, 2018 (the "QuickBooks Data").

2. The Username and Password and the QuickBooks Data shall be subject to and governed by the June 2020 Protective Order. The provisions of this Order supersede the second sentence of Paragraph 4 of the June 2020 Protective Order providing that "The Defendant's counsel may provide the Defendant with the Discovery to review in the Defendant's home in an area where others will not have access to the Discovery." All other provisions of the June 2020 Protective Order shall remain in full force and effect.

3. Neither the Government nor Defendant may alter, revise, change, or edit the QuickBooks Data.

4. Defendant's undersigned Delaware counsel and the Government's undersigned counsel may disclose the Username and Password only to experts retained in this case, their partners, associates, paralegals, administrative assistants, and regular employees who are assisting in the litigation. Defendant is prohibited from becoming aware of, possessing, obtaining, or controlling the Username and Password, or downloading, exfiltrating, copying, duplicating, reproducing, or removing the QuickBooks Data.

5. Defendant is permitted to view the QuickBooks Data with her undersigned Delaware counsel.

6. The Former Employer's production of the Username and Password and access to the QuickBooks Data shall satisfy the Former Employer's obligation, if any, to produce documents responsive to Request No. 5 of the Former Employer Subpoena.

7. Upon the Former Employer's production of the Username and Password, the Defendant shall withdraw the Intuit Subpoena and the Stefano Slack Subpoena.

8. The Username and Password shall expire 30 days after it is provided to Defendant's undersigned Delaware counsel and the Government's undersigned counsel. This period may be extended by stipulation of the parties hereto.

9. Within five (5) days of the entry of this Order, the Former Employer shall produce the Supplemental Arete Communications, which shall be subject to and governed by the June 2020 Protective Order.

UNITED STATES DEPARTMENT OF LAW OFFICE OF JOHN S. MALIK
JUSTICE

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Dated: October 15, 2021

IT IS SO ORDERED this 10th day of October, 2021



The Honorable Leonard P. Stark